

# PUBLIC NOTICE



**US Army Corps  
of Engineers  
Kansas City District**

**Permit No. 2008-2085  
Issue Date: December 11, 2008  
Expiration Date: January 11, 2009**

**30-Day Notice**

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**JOINT PUBLIC NOTICE:** This public notice is issued jointly with the Kansas Department of Health and Environment. The Department of Health and Environment will use the comments to this notice in deciding whether to grant Section 401 water quality certification. Commenters are requested to furnish a copy of their comments to the Kansas Department of Health and Environment, Bureau of Water - Watershed Management Section, 1000 SW Jackson Street, Suite 420, Topeka, Kansas 66612-1367.

**APPLICANT:** John D. Porter Trust  
ATTN: John D. Porter, Trustee  
100 North Ohio  
Mt. Hope, Kansas 67108

**PROJECT LOCATION** (As shown on the attached drawings): The project site is located in Section 16, Township 25 south, Range 3 west, Sedgwick County, Kansas.  
[KS-PATTERSON USGS QUAD; Lat: 37.875515919344, Long: -97.6650255372505]

**AUTHORITY:** Section 404 of the Clean Water Act (33 USC 1344).

**ACTIVITY** (As shown on the attached drawings): The applicant proposes to place fill material into 1.15-acre of wetlands for the construction of a convenience store and associated parking area. The fill material for the construction site would be excavated from two spots in uplands located adjacent to the wetlands. A vegetated buffer would be established in between the store/parking lot and the wetland.

**WETLANDS/AQUATIC HABITAT:** A total of 1.15-acre of herbaceous wetlands would be impacted (filled) by the project.

**APPLICANT'S STATEMENT OF AVOIDANCE, MINIMIZATION, AND COMPENSATORY MITIGATION FOR UNAVOIDABLE IMPACTS TO AQUATIC RESOURCES:** The applicant proposes to mitigate for the unavoidable impacts by on-site and in-kind permittee responsible mitigation. A total of 1.17-acre of wetlands would be created by the excavation of uplands from two locations located along the edge of the wetland.

**ADDITIONAL INFORMATION:** Additional information about this application may be obtained by contacting Mr. Thomas A. McCabe at the Kansas State Regulatory Office, 2710 NE Shady Creek Access Road, El Dorado, Kansas, 67042, by telephone at (816) 389-3743, or by fax at (316) 322-8259. All comments to this public notice should be directed to this address.

**STATE AUTHORIZATION:** The applicant has been notified of permit requirements from the Kansas Department of Agriculture pursuant to Kansas Statutes Annotated 82a-301 to 305.

**CULTURAL RESOURCES:** Kansas City District will comply with the National Historic Preservation Act of 1966 and 36 CFR 800. We have checked the National Register of Historic Places and the Federal Register and no property listed in the Register or proposed for listing is located in the permit area. This is the extent of our knowledge about historic properties in the permit area at this time. However, we will evaluate input by the State Historic Preservation Officer, Tribal Historic Preservation Officers (or Tribe designated representative) and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic properties, if warranted.

**ENDANGERED SPECIES:** In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

**FLOODPLAINS:** This activity is being reviewed in accordance with Executive Order 11988, Floodplain Management, which discourages direct or indirect support of floodplain development whenever there is a practicable alternative. By this public notice, comments are requested from individuals and agencies that believe the described work will adversely impact the floodplain.

**WATER QUALITY CERTIFICATION:** Section 401 of the Clean Water Act (33 USC 1341) requires that all discharges of dredged or fill material must be certified by the appropriate state agency as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the state in which the discharge site is located for certification of the discharge. The discharge must be certified before a Department of the Army permit can be issued. Certification, if issued, expresses the state's opinion that the discharge will not violate applicable water quality standards.

**PUBLIC INTEREST REVIEW:** The decision to issue a permit will be based on an evaluation of the probable impact including the cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, esthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency under authority of Section 404(b) of the Clean Water Act (33 USC 1344). The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

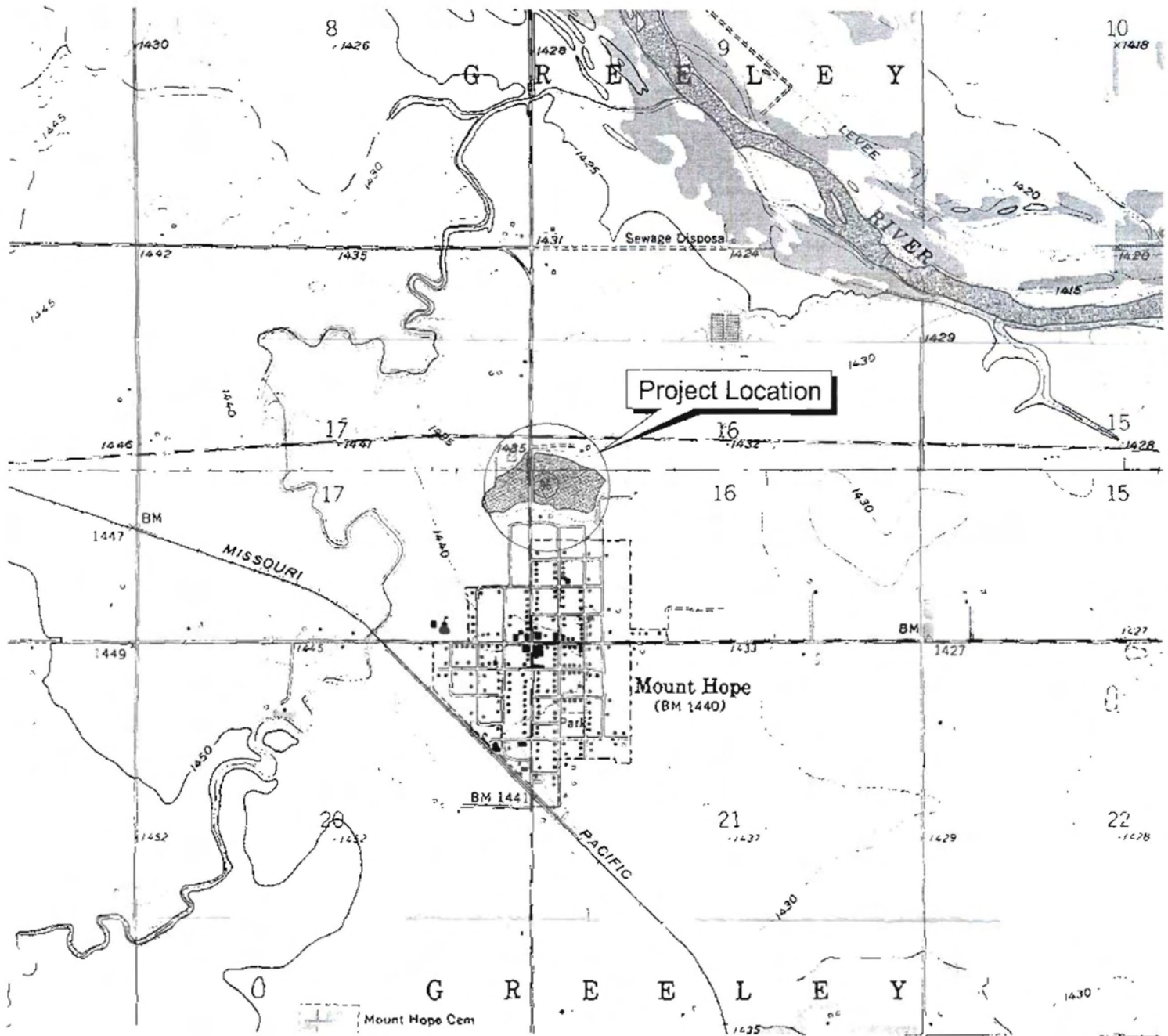
**COMMENTS:** This notice is provided to outline details of the above-described activity so this District may consider all pertinent comments prior to determining if issuance of a permit would be in the public interest. Any interested party is invited to submit to this office written facts or objections relative to the activity on or before the public notice expiration date. Comments both favorable and unfavorable will be accepted and made a part of the record and will receive full consideration in determining whether it would be in the public interest to issue the Department of the Army permit. Copies of all comments, including names and addresses of commenters, may be provided to the applicant. Comments should be mailed to the address shown under the section titled Additional Information on page 1 of this public notice.

**PUBLIC HEARING:** Any person may request, in writing, prior to the expiration date of this public notice, that a public hearing be held to consider this application. Such requests shall state, with particularity, the reasons for holding a public hearing.

**NOTE:** This public notice is posted on the Kansas City District Regulatory web page and can be viewed at the following address:

[http://www.nwk.usace.army.mil/regulatory/public\\_notices.htm](http://www.nwk.usace.army.mil/regulatory/public_notices.htm)

# Mount Hope Project

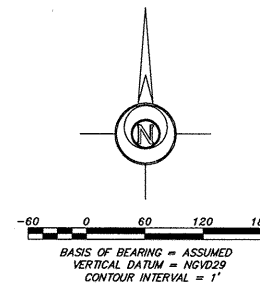
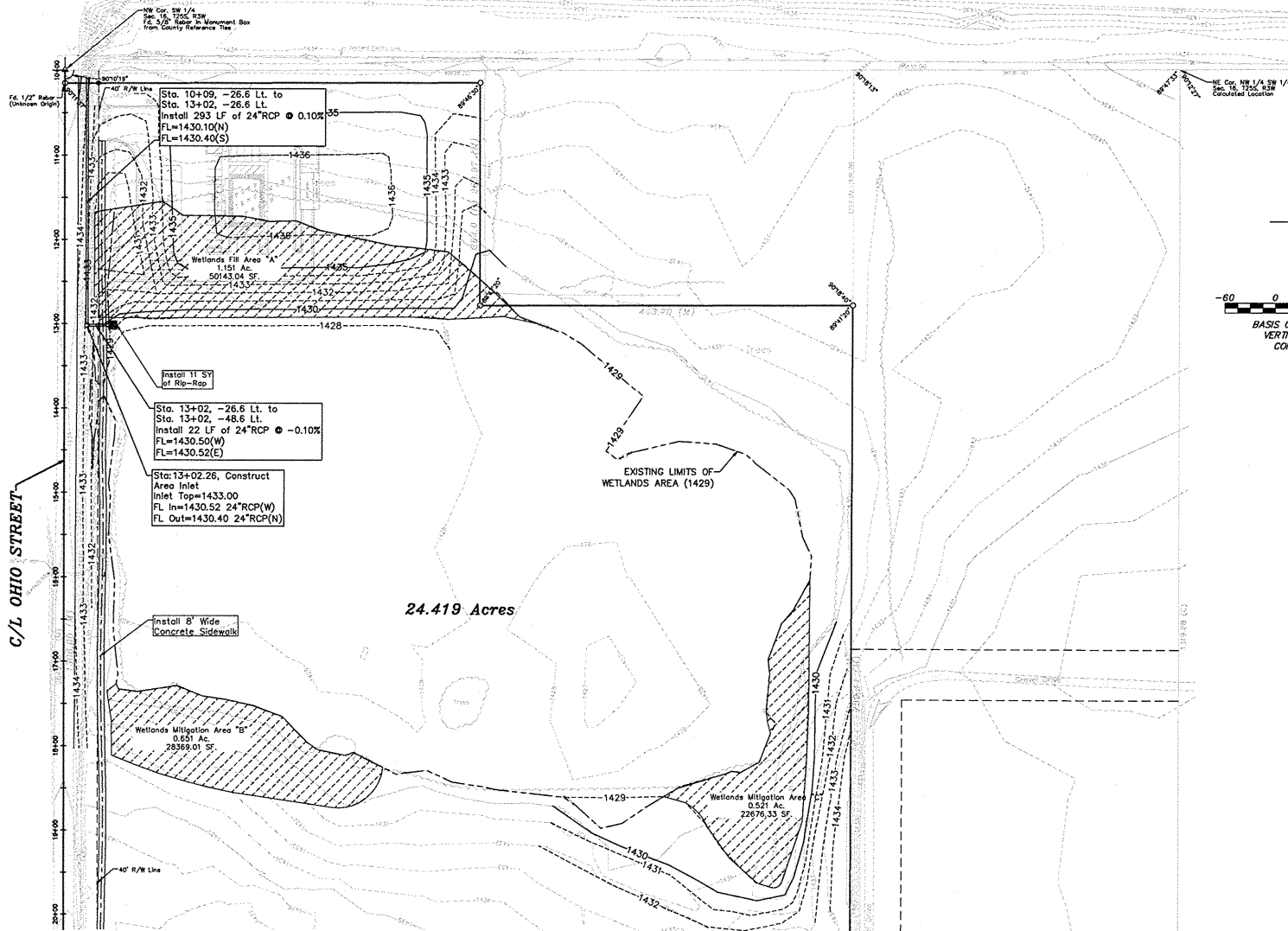


**Mt. Hope/Patterson, KS Quad  
(T 25 South, R 3 West)**

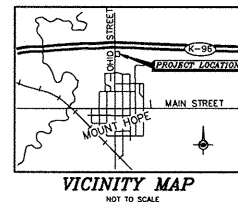
0.6 0 0.6 1.2 Miles



# K-96 Hwy



- LEGEND**
- △ - Sectional Monument Found
  - - Survey Monument Found
  - - 5/8" x 24" Iron Rebar Set in concrete w/ C.S.S. Cap
  - - 5/8" x 24" Iron Rebar Set w/ C.S.S. Cap
  - - Measured
  - - Record measurement
  - P.B. - Point of Beginning
  - (P.B.) - Previous Survey - Garber Project No. 02006-272

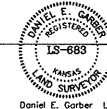


**DESCRIPTION OF RECORD:**  
The Northwest Quarter of the Southwest Quarter of Section 16, Township 25 South, Range 3 West of the Sixth Principal Meridian, Sedgewick County, Kansas, EXCEPT that part described as beginning at the Southeast corner of the Northwest Quarter of the Southwest Quarter of said Section 16; thence West 570 feet; thence North parallel to the East line of said Northwest Quarter of the Southwest Quarter, 242 feet; thence East parallel to the South line of said Northwest Quarter of the Southwest Quarter, 180 feet; thence North parallel to the East line of the Northwest Quarter of the Southwest Quarter to a point 279 feet South of the North line of the Northwest Quarter of the Southwest Quarter; thence West parallel to the North line of the Southwest Quarter to a point 495 feet East of the West line of said Southwest Quarter; thence North parallel to the West line of the Northwest Quarter of the Southwest Quarter, 264 feet; thence West parallel to the North line of the Northwest Quarter of the Southwest Quarter, 495 feet to the West line of the Southwest Quarter; thence North 15 feet to the Northwest corner of the Southwest Quarter; thence East to the Northwest corner of the Northwest Quarter of the Southwest Quarter; thence South to the point of beginning, AND EXCEPT the West 40 feet thereof for road purposes.

**GENERAL NOTES:**  
1.) Section Corner ties filed with County Engineers Office and with the Kansas State Historical Society.

**BENCHMARK:**  
U.S.G.S. disk stamped "TTBONA(1957)" Located 21' West & 31' North of the intersection of Randall & Main in Mount Hope.  
Record Elevation = 1440.44 (NGVD29)

**SURVEYOR'S CERTIFICATE:**  
I hereby certify this plot to be a true, correct and complete representation of the topography of the site shown hereon, as surveyed under my supervision, this 13th day of November, 2008.



Application No. 2008-2085  
John D. Porter Trust  
Commercial Development  
Sedgewick County, Kansas  
Sheet 2 of 2 - Dated 11 December 2008